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 Kyphon Inc.

UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 SAN JOSE DIVISION

SAFRONIA DODD-OWENS, et al., etc.,
 Plaintiffs,
 v.
 KYPHON INC.,
 Defendant.

CASE NO. CV 06 03988 JF

**STIPULATION AND ~~PROPOSED~~ ORDER
 SHORTENING TIME TO NOTICE
 DEFENDANT'S MOTION FOR
 PROTECTIVE ORDER AND MODIFYING
 BRIEFING SCHEDULE THEREON**

Complaint Date: June 27, 2006
 Trial Date: None Assigned

MODIFIED BY THE COURT

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11618/0002/671513.1

Stipulation and ~~Proposed~~ Order Shortening Time to Notice
 Defendant's Motion for Protective Order and Modifying Briefing
 Schedule Thereon
 Case No. CV 06 03988 JF

STIPULATION

WHEREAS, Defendant Kyphon Inc. ("Defendant") intends to file a motion for protective order in this matter;

WHEREAS, Plaintiffs Safronia Dodd-Owens, Natalie Amaya, Tera Byrer, Tiffany Socha, Teri Carr, Elizabeth "Lisa" Glus and Christy Wronikowski (collectively referred to hereafter as "Plaintiffs") and Defendant mutually selected June 17, 2008 as the hearing date for Defendant's motion for protective order;

WHEREAS, under Civil L.R. 7-2 (a), a motion must be filed and served at least thirty-five (35) days prior to hearing date on that motion;

WHEREAS, under Civil L.R. 7-2 (a), May 13, 2008 was the deadline for Defendant to file and serve its motion for protective order in order to have that motion heard on June 17, 2008;

WHEREAS, Philip J. Smith, counsel for Defendant, is responsible for filing Defendant's motion for protective order;

WHEREAS, due to a mistake for which Mr. Smith is solely responsible, Defendant's motion for protective order was not filed on May 13, 2008;

WHEREAS, Plaintiffs and Defendant (collectively referred to hereafter as "the Parties") still desire to have Defendant's motion for protective order heard on June 17, 2008;

WHEREAS, under Civil L.R. 6-2 (a) the Parties may stipulate, *inter alia*, to accelerate time frames set in the Local Rules;

THEREFORE, the Parties, through their counsel of record, hereby STIPULATE that Defendant may file and serve its motion for protective order on or before May 19, 2008, which is twenty-nine (29) days prior to June 17, 2008;

THEREFORE, the Parties, through their counsel of record, further STIPULATE that Plaintiffs' opposition to Defendant's motion for protective order must be filed and served on or before June 2, 2008, which is fifteen (15) days prior to June 17, 2008;

THEREFORE, the Parties, through their counsel of record, further STIPULATE that Defendant's reply brief must be filed and served on or before June 9, 2008, which is eight (8) days prior to June 17, 2008.

IT IS SO STIPULATED.

DATED: May 16, 2008

SANFORD WITTELS & HEISLER, LLP
LAW OFFICES OF GRANT E. MORRIS
LITTON & GEONETTA, LLP

By: /s/ David Sanford
David Sanford

Attorneys for Plaintiffs

DATED: May 16, 2008

DLA PIPER US LLP

SEVERSON & WERSON
A Professional Corporation

By: /s/ Philip J. Smith
Philip J. Smith

Attorneys for Defendant

ORDER

~~PURSUANT TO STIPULATION, IT IS SO ORDERED.~~

~~Dated: May 19, 2008 By: Hon. Howard R. Lloyd
U.S. District Court, Northern District of California~~

The court does not find defense counsel's negligence to be "good cause" for an order shortening time. Nevertheless, the parties' request for a June 17, 2008 motion hearing is granted. The briefing schedule shall be as follows:

May 19, 2008: Defendant's motion for protective order due
May 30, 2008: Plaintiffs' opposition due
June 3, 2008: Defendant's reply due

Dated: May 19, 2008

